

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALL ROCK CRUSHING, INC.,

Plaintiff,

—against—

EDWARD DOYLE, JR. in his official capacity as President
of Teamsters Local Union 456 affiliated with the
International Brotherhood of Teamsters and Local Union
456 affiliated with International Brotherhood of Teamsters,

Defendant.
-----X

PROOF OF SERVICE

08 Civ. 6764

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

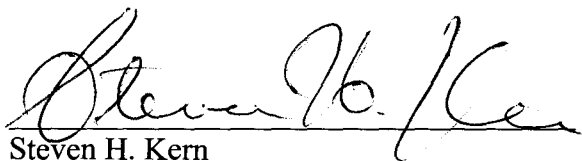
Steven H. Kern, being duly sworn, deposes and says:

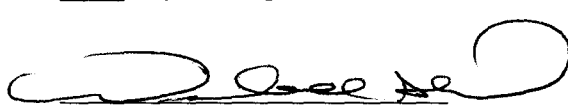
That I am not a party to this action, am over 18 years old and reside in Ossining, New York.

On July 30, 2008, I filed a copy of a Notice of Filing of Notice of Removal (in the form annexed) with the clerk of the New York Supreme Court, Westchester County, and I served a copy of such Notice along with the Notice of Removal as filed with the Clerk of the U.S. District Court, S.D.N.Y. (in the form annexed) on all adverse parties by First Class Mail addressed as follows:

George Kokkalenios, Esq.
George Kokkalenios & Associates
50 Main Street / Suite 1000
White Plains, NY 10606

SWORN to before me this
1st day of August, 2008.


Steven H. Kern


Notary public

WENDELL V. SHEPHERD
Notary Public, State of New York
No. 31-4902931
Qualified in New York County
Commission Expires ~~January 4, 2010~~
March 1, 2010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

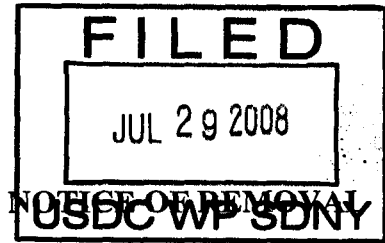
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08 CIV. 6764

Civ. Action No.

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK:

Defendants, EDWARD DOYLE, JR. in his official capacity as President of Teamsters
Local Union 456 affiliated with the International Brotherhood of Teamsters and Local Union 456
affiliated with International Brotherhood of Teamsters, by their attorneys, Barnes,
Iaccarino, Virginia, Ambinder & Shepherd, PLLC, pursuant to 28 U.S.C. § 1441, respectfully
seeks removal of this action and shows:

1. That All Rock Crushing, Inc., plaintiff herein, purported to commence a civil
action in the Supreme Court of the State of New York, County of Westchester, entitled "All
Rock Crushing, Inc. v. Edward Doyle, Jr. in his official capacity as President of Teamsters Local
Union 456 affiliated with the International Brotherhood of Teamsters and Local Union 456
affiliated with International Brotherhood of Teamsters", by filing with the Clerk of the said
Court, an Order to Show Cause (in lieu of Notice of Petition) dated July 22, 2008 and a Petition
dated and verified on July 17, 2008.

2. The statutory bases of removal jurisdiction in this Court are 28 U.S.C. § 1441 and § 1331, in that the claim or right arises under the laws of the United States.

3. This is a civil action of which this Court has original jurisdiction under Section 301 of the Labor Management Relations Act ("L.M.R.A."), 29 U.S.C. § 185, and is one, therefore, which may be removed to this Court by the defendant herein pursuant to the provisions of 28 U.S.C. § 1441(a).

4. Defendant Teamsters Local Union 456 affiliated with the International Brotherhood of Teamsters (the "Union") is a party in the said action and is a labor organization within the meaning of L.M.R.A. Section 2(5), 29 U.S.C. § 152(5) with offices at 160 South Central Avenue, Elmsford, New York, County of Westchester. Defendant Edward Doyle, Jr. is a party in his capacity as President of the Union.

5. The plaintiff All Rock Crushing, Inc. is upon information and belief, a corporation duly organized and existing under the laws of New York State with its principal office located at 465 Yorktown Road, Croton-on-Hudson, New York, County of Westchester.

6. As alleged in the plaintiff's Verified Petition, plaintiff and the Union are parties to a collective bargaining agreement (the "CBA") effective from June 1, 2005 through May 31, 2008. The CBA provides for arbitration of disputes under the auspices of the American Arbitration Association ("AAA").

7. The Union has initiated arbitration proceedings at AAA under the CBA regarding "failure to abide by 'cease and desist' provisions of Arbitration Award; continued refusal to use Union's referral service and to employ Union members to perform covered work". Said "failure" and "refusal" began after issuance of the said Arbitration Award in January 2008. Plaintiff seeks

in this action to stay the arbitration on the ground that there is no applicable enforceable arbitration agreement.

8. Copies of all process and pleadings served on the defendants in connection with this action are filed herewith and attached hereto as Exhibit A.

9. The instant Notice of Removal is filed within thirty (30) days of receipt by the Union of a copy of the initial pleading setting forth the claim for relief upon which the above described action is based.

WHEREFORE, the defendants Union and Doyle pray that this action be removed to the United States District Court for the Southern District of New York.

Dated: Elmsford, New York
July 24, 2008

BARNES, IACCARINO, VIRGINIA,
AMBINDER & SHEPHERD, P.L.L.C.
Attorneys for Defendant

by: s/ Steven H. Kern
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Elmsford, NY 10523
(914) 592-5740

